

BEFORE THE INDIANA STATE DEPARTMENT OF HEALTH

**AN ADMINISTRATIVE RULES HEARING
LSA DOCUMENT #09-682**

HEARING OFFICER REPORT

This matter came before the duly appointed Hearing Officer, Kimberly Crawford, on the 12th day of October, 2010, at 10:00 a.m., at the Indiana State Department of Health (ISDH), Wilson Conference Room, 2 North Meridian Street, Indianapolis, Indiana.

Notice of time and place of the hearing was given as provided by law by publishing on September 8, 2010, in the *Indianapolis Star* and by publishing in the *Indiana Register* dated September 2, 2010. Proof of publication of this notice has been received by the ISDH and the notice and proof are hereby incorporated into the record of this cause by reference and placed in the official files of the ISDH.

ORAL STATEMENT

Jodi Perras
Executive Director
Improving Kids' Environment

Ms. Perras testified at the hearing. She stated that IKE commends the Indiana State Department of Health for development of this draft rule, especially as it covers indoor air quality in the school environment. These rules are necessary to encourage improved indoor air quality (IAQ) in Indiana schools. IKE offered the following comments on the proposed rule:

1. IAQ Coordinator Definition: Insert "for issues relating to indoor air quality" between "person" and "for."
2. The draft vehicle idling rule should be strengthened to specify what the school's vehicle idling policy must include. We also believe the 100-foot idle-free zone may be inadequate on some days and on some campuses where natural air flows carry vehicle exhaust toward the school building.
3. The proposed rule governing HVAC should be strengthened to mandate minimum frequency to clean HVAC coils and change filters. With reductions in school maintenance budgets, it is important for the state to set minimum standards for maintaining HVAC systems, based upon generally accepted practices of HVAC professionals. The rule also should be more specific in requiring that supply and return air pathways for the ventilation system should be unobstructed and perform as required.

4. The section on chemicals (Section 8) should be expanded to require schools to review other chemicals used on school property, including pesticides, disinfectants and cleaning chemicals. We understand that some schools are being sold hospital-grade cleaning and disinfecting chemicals, which are dangerous and unnecessary in school facilities. The State Chemist's office is promulgating a new rule governing the use of pesticides in schools, which should minimize unnecessary exposure to pesticides. The ISDH rule should reference the rule approved by the Indiana Pesticide Review Board, once it goes into effect.
5. The rule should also require that schools adopt a policy prohibiting the donation of used upholstered furniture for use in instructional areas, since this type of furniture is known to harbor dust mites, mold and other common allergens that affect children with asthma.
6. The rule related to school construction should be strengthened to include other steps designed to prevent exposure to construction-related indoor air pollutants. The changes recommended in IKE's written statement would encourage schools to consider products and materials that create minimal off-gassing, to increase housekeeping activities during construction, and to allow time for off-gassing before space is occupied. These steps are recommended by the U.S. Environmental Protection Agency under its IAQ checklists for renovation and repair.

Roger Cohen
Staff Scientist
Patriot Engineering and Environmental

Mr. Cohen also testified. He stated that he was there to see what legislation was enacted in regard to mold and water damage. Patriot Engineering and Environmental provides third party oversight, indoor air quality and mold sampling. He stated that the rule states that fish and aquariums are exempt from educational requirements of section 7a; however, that is where a lot of the mold and the allergens come from is from tanks that aren't cleaned properly.

Barbara Lucas
Asthma Program Director
Indiana State Department of Health

Ms. Lucas also testified. She stated that she would like to see section 8 strengthened by saying the school should adopt a policy to minimize student and staff exposure to chemicals.

WRITTEN STATEMENT

Jodi Perras
Executive Director
Improving Kids' Environment

The record was left open until the close of business, October 12, 2010. On October 12, 2010 written comments were submitted by Ms. Jodi Perras, on behalf of Improving Kids' Environment. IKE commended the Indiana State Department of Health for development of this draft rule, especially as it covers indoor air quality in the school environment. These rules are necessary to encourage improved indoor air quality (IAQ) in Indiana schools. IKE also offered the following comments on the proposed rule:

1. IAQ Coordinator Definition: Insert "for issues relating to indoor air quality" between "person" and "for."
2. The draft vehicle idling rule should be strengthened to specify what the school's vehicle idling policy must include. We also believe the 100-foot idle-free zone may be inadequate on some days and on some campuses where natural air flows carry vehicle exhaust toward the school building.
3. The proposed rule governing HVAC should be strengthened to mandate minimum frequency to clean HVAC coils and change filters. With reductions in school maintenance budgets, it is important for the state to set minimum standards for maintaining HVAC systems, based upon generally accepted practices of HVAC professionals. The rule also should be more specific in requiring that supply and return air pathways for the ventilation system should be unobstructed and perform as required.
4. The section on chemicals (Section 8) should be expanded to require schools to review other chemicals used on school property, including pesticides, disinfectants and cleaning chemicals. We understand that some schools are being sold hospital-grade cleaning and disinfecting chemicals, which are dangerous and unnecessary in school facilities. The State Chemist's office is promulgating a new rule governing the use of pesticides in schools, which should minimize unnecessary exposure to pesticides. The ISDH rule should reference the rule approved by the Indiana Pesticide Review Board, once it goes into effect.

5. The rule should also require that schools adopt a policy prohibiting the donation of used upholstered furniture for use in instructional areas, since this type of furniture is known to harbor dust mites, mold and other common allergens that affect children with asthma.
6. The rule related to school construction should be strengthened to include other steps designed to prevent exposure to construction-related indoor air pollutants. The changes recommended in IKE's written comments attached as Exhibit 1 would encourage schools to consider products and materials that create minimal off-gassing, to increase housekeeping activities during construction, and to allow time for off-gassing before space is occupied. These steps are recommended by the U.S.

Environmental Protection Agency under its IAQ checklists for renovation and repair.

Ms. Perras's comments are attached and incorporated by reference as Exhibit 1.

Roger Cohen
Staff Scientist,
Patriot Engineering and Environmental

The record was left open until the close of business, October 12, 2010. On October 12, 2010 written comments were submitted by Mr. Roger Cohen, on behalf of Patriot Engineering and Environmental. Mr. Cohen further suggested changes in section 410 IAC 33-4-6 Allergens; irritants to ensure best practice in regard to mold remediation:

- It might be advisable to have schools adopt and enforce a written policy in regards to mold response, similar in idea to that proposed in 410 IAC 33-4-3 Vehicle idling. This policy could lay-out various practices to ensure containment, such as sealing the HVAC system and laying down plastic sheeting, and to assess completeness of abatement through air monitoring.
- It could also distinguish best practice methods depending on the size and location of the area undergoing corrective action.
- A possible guide for this information is the Guidelines on Assessment and Remediation of Fungi in Indoor Environments by the New York City Department of Health and Mental Hygiene, November 2008. It can be found here:
<http://www.nyc.gov/html/doh/downloads/pdf/epi/epi-mold-guidelines.pdf>.

Mr. Cohen's comments are attached and incorporated by reference as Exhibit 2.

Dated at Indianapolis, Indiana this 12th day of October, 2010.



Kimberly Crawford
Hearing Officer

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Executive Director

Jodi Perras

Improving Kids' Environment Testimony to Indiana State Department of Health Proposed Rule LSA Document #09-682 October 12, 2010

My name is Jodi Perras and I am executive director of Improving Kids' Environment, a non-profit education and advocacy organization that works to ensure health homes, schools and childcare facilities for all Indiana Children. IKE facilitates tangible and significant improvements to children's health through reductions in environmental threats.

We commend the Indiana State Department of Health for development of this draft rule, especially as it covers indoor air quality in the school environment. These rules are necessary to encourage improved indoor air quality (IAQ) in Indiana schools.

According to the U.S. Environmental Protection Agency, improving indoor air quality in schools can help:

- Reduce absenteeism
- Improve student and staff concentration
- Improve student productivity and performance
- Decrease IAQ-related health risks from exposure to indoor pollutants
- Reduce environmental triggers of asthma
- Reduce respiratory illness

We offer the following comments on the proposed rule:

1. IAQ Coordinator Definition: Insert "for issues relating to indoor air quality" between "person" and "for," so that the definition reads:

Sec. 6. "IAQ coordinator" means a person who is designated by the school or state agency to serve as a lead contact person for issues relating to indoor air quality for the following...

2. Vehicle Idling: Because the ISDH Best Practices Manual for IAQ is not yet available, we believe the draft vehicle idling rule should be strengthened to specify what the school's vehicle idling policy must include. We also believe the 100-foot idle-free zone may be inadequate on some days and on some campuses



where natural air flows carry vehicle exhaust toward the school building. We suggest the following edits to the draft rule:

410 IAC 33-4-3 Vehicle idling

Authority: IC 16-19-3-5; IC 16-41-37.5

Affected: IC 16-41-37.5

Sec. 3. Schools shall adopt and enforce a written policy to address any idling vehicles on school grounds. This policy:

(1) shall be modeled after the state department's manual of best practices for managing IAQ in schools; and

(2) shall, at minimum, include the following provisions:

- As a general rule, engines should be off when buses are not moving;
- The engine should be turned off as soon as possible after arriving at loading or unloading areas;
- The school bus should not be restarted until it is ready to depart;
- Drivers should limit idling time during early morning warm up to what the manufacturer recommends (generally no more than five minutes);
- All service delivery vehicles shall turn off the engines while making deliveries to school buildings;
- Parents, guardians and students should be prohibited from idling vehicles on school grounds.

(3) shall be available for the state inspector's review.

(Indiana State Department of Health; 410 IAC 33-4-3)

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3. HVAC: The proposed rule governing HVAC should be strengthened to mandate minimum frequency to clean HVAC coils and change filters. With reductions in school maintenance budgets, it is important for the state to set minimum standards for maintaining HVAC systems, based upon generally accepted practices of HVAC professionals. The rule also should be more specific in requiring that supply and return air pathways for the ventilation system should be unobstructed and perform as required.

410 IAC 33-4-5 HVAC

Authority: IC 16-19-3-5; IC 16-41-37.5

Affected: IC 16-41-37.5

Sec. 5. (a) Schools shall establish and maintain a written procedure for routine maintenance of HVAC systems. This procedure shall include, but is not limited to, the following items:

(1) A schedule for inspecting the HVAC system, including an annual inspection.

(2) Ensuring that all supply and return air pathways in the ventilation system are unobstructed and perform as required.

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- (3) A schedule for cleaning the HVAC coils (annually, at minimum).
(4) A schedule for inspecting and changing filters (at minimum, filters should be changed every three months during the normal school year).

This procedure shall be available for the state inspector's review.

4. Chemicals. The section on chemicals (Section 8) focuses primarily on chemicals used in classrooms. This section should be expanded to require schools to review other chemicals used on school property, including pesticides, disinfectants and cleaning chemicals. We understand that some schools are being sold hospital-grade cleaning and disinfecting chemicals, which are dangerous and unnecessary in school facilities. The State Chemist's office is promulgating a new rule governing the use of pesticides in schools, which should minimize unnecessary exposure to pesticides. The ISDH rule should reference the rule approved by the Indiana Pesticide Review Board, once it goes into effect. We suggest the following changes to the draft rule:

410 IAC 33-4-8 Chemicals

Authority: IC 16-19-3-5; IC 16-41-37.5

Affected: IC 16-41-37.5

Sec. 8. (a) Student exposure to chemicals must be kept to a minimum. When evaluating student exposures, the more stringent of National Institute for Occupational Safety and Health (NIOSH) limits or Occupational Safety and Health Administration (OSHA) limits must be used.

(b) Where chemicals are used during class, such as, but not limited to, chemistry, biology, and shop classes, appropriate ventilation must be used to minimize students' exposure to these chemicals, such as a local exhaust system.

(c) The school must adopt and enforce a policy that minimizes student and staff exposure to chemicals, including the following, where appropriate:

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(1) Chemicals used in the classroom.

(2) Bactericides.

(3) Disinfectants.

(4) Germicides.

(5) Sanitizing agents.

(6) Swimming pool chemicals.

(7) Water purifying chemicals

(8) Pesticides, pursuant to requirements under [INSERT IAC citation].

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(Indiana State Department of Health; 410 IAC 33-4-8)

5. Furniture: The rule should also require that schools adopt a policy prohibiting the donation of used upholstered furniture for use in instructional areas, since this type of furniture is known to harbor dust mites, mold and other common allergens that affect children with asthma.

410 IAC 33-4-9 Furniture

Authority: IC 16-19-3-5; IC 16-41-37.5

Affected: IC 16-41-37.5

Sec. 9. (a) Furniture in classrooms shall be maintained so as to prevent the accumulation or growth of allergens. This shall include routine cleaning as appropriate for the type of furniture.

(b) The school shall adopt a policy discouraging or prohibiting the donation of used upholstered furniture for use in instructional areas.

(Indiana State Department of Health; 410 IAC 33-4-9)

6. Construction: The rule related to school construction should be strengthened to include other steps designed to prevent exposure to construction-related indoor air pollutants. The changes recommended below would encourage schools to consider products and materials that create minimal off-gassing, to increase housekeeping activities during construction, and to allow time for off-gassing before space is occupied. These steps are recommended by the U.S. Environmental Protection Agency under its IAQ checklists for renovation and repair.

410 IAC 33-4-10 Construction

Authority: IC 16-19-3-5; IC 16-41-37.5

Affected: IC 16-41-37.5

Sec. 10. (a) During building renovation or additions, steps must be taken to ensure pollutants from these areas do not enter the occupied spaces. These steps may include, but are not limited to, the following:

- (1) Selecting products and materials with minimal off-gassing.**
- (2) Keeping the occupied spaces under positive pressure in relation to the work areas.**
- (3) Filtration.**
- (4) Limiting certain activities to times of no occupancy.**
- (5) Temporary partitions.**
- (6) Increasing housekeeping activities during renovation or additions.**
- (7) Allowing time for off-gassing before space is occupied.**
- (8) Other appropriate actions.**

(b) For new construction, carpet is prohibited on walls.

(Indiana State Department of Health; 410 IAC 33-4-10)

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Crawford, Kimberly A

From: Roger Cohen [rcohen@patrioteng.com]

Sent: Tuesday, October 12, 2010 3:40 PM

To: Crawford, Kimberly A

Subject: LSA Document #09-682

Kim,

Thank you for hosting the public discussion on proposed rule LSA Document #09-682 this morning.

Further to the meeting, I have some suggestions to changes in section 410 IAC 33-4-6 Allergens; irritants to ensure best practice in regards to mold remediation. I thought it might be advisable to have schools adopt and enforce a written policy in regards to mold response, similar in idea to that proposed in 410 IAC 33-4-3 Vehicle idling. This policy could lay-out various practices to ensure containment, such as sealing the HVAC system and laying down plastic sheeting, and to assess completeness of abatement through air monitoring. It could also distinguish best practice methods depending on the size and location of the area undergoing corrective action.

A possible guide for this information is the *Guidelines on Assessment and Remediation of Fungi in Indoor Environments* by the New York City Department of Health and Mental Hygiene, November 2008. It can be found here:

<http://www.nyc.gov/html/doh/downloads/pdf/epi/epi-mold-guidelines.pdf>

It was a pleasure to meet you today, and please let me know if you have any questions in regards to my email.

Thank you,

Roger Cohen
Staff Scientist

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